

Commission on Civil Rights

§ 702.12

§ 702.7 Counsel.

(a) Persons compelled to appear in person before the Commission and any witness appearing at a public session of the Commission will be accorded the right to be accompanied and advised by counsel, who will have the right to subject their clients to reasonable examination, make objections on the record, and briefly argue the basis for such objections.

(b) For the purpose of this section, counsel shall mean an attorney at law admitted to practice before the Supreme Court of the United States or the highest court of any State or Territory of the United States.

(c) Failure of any persons to obtain counsel shall not excuse them from attendance in response to a subpoena, nor shall any persons be excused in the event their counsel is excluded from the proceeding pursuant to § 702.6(g). In the latter case, however, such persons shall be afforded a reasonable time to obtain other counsel, said time to be determined by the Commission.

§ 702.8 Evidence at Commission proceedings.

(a) The rules of evidence prevailing in courts of law or equity shall not control proceedings of the Commission.

(b) Where a witness testifying at a public session of a hearing or a session for return of subpoenaed documents offers the sworn statements of other persons, such statements, in the discretion of the Commission, may be included in the record, provided they are received by the Commission 24 hours in advance of the witness' appearance.

(c) The prepared statement of a witness testifying at a public session of a hearing, in the discretion of the Commission, may be placed into the record, provided that such statement is received by the Commission 24 hours in advance of the witness' appearance.

(d) In the discretion of the Commission, evidence may be included in the record after the close of a public session of a hearing provided the Commission determines that such evidence does not tend to defame, degrade, or incriminate any person.

(e) The Commission will determine the pertinence of testimony and evidence adduced at its proceedings and

may refuse to include in the record of a proceeding or may strike from the record any evidence it considers to be cumulative, immaterial, or not pertinent.

§ 702.9 Cross-examination at public session.

If the Commission determines that oral testimony of a witness at a public session tends to defame, degrade, or incriminate any person, such person, or through counsel, shall be permitted to submit questions to the Commission in writing, which, in the discretion of the Commission, may be put to such witness by the Chairperson or by authorized Commission staff personnel.

§ 702.10 Voluntary witnesses at public session of a hearing.

A person who has not been subpoenaed and who has not been afforded an opportunity to appear pursuant to § 702.6 may be permitted, in the discretion of the Commission, to make an oral or written statement at a public session of a hearing. Such person may be questioned to the same extent and in the same manner as other witnesses before the Commission.

§ 702.11 Special executive session.

If, during the course of a public session, evidence is submitted that was not previously presented at executive session and that the Commission determines may defame, degrade, or incriminate any person, the provisions of § 702.6 shall apply and such extensions, recesses or continuances of the public session shall be ordered by the Commission, as it deems necessary. The time and notice requirements of § 702.6 may be modified by the Commission provided reasonable notice of a scheduled executive session is afforded such person; the Commission may, in its discretion, strike such evidence from the record, in which case the provisions of § 702.6 shall not apply.

§ 702.12 Contempt of the Commission.

Proceedings and process of the Commission are governed by 42 U.S.C. 1975a(e)(2), which provides that in case of contumacy or refusal to obey a subpoena, the Attorney General may in a

§ 702.13

Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

§ 702.13 Intimidation of witnesses.

Witnesses at Commission proceedings are protected by the provisions of 18 U.S.C. 1505, which provide that whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress shall be fined under this title or imprisoned not more than five years, or both.

§ 702.14 Transcript of Commission proceedings.

(a) An accurate transcript shall be made of the testimony of all witnesses at all proceedings of the Commission. Transcripts shall be recorded solely by the official reporter or by any other person or means designated by the Commission.

(b) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that witnesses in a hearing held in executive session may be limited, for good cause, to inspection of the official transcript of their testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof.

45 CFR Ch. VII (10–1–03 Edition)

(c) Persons who have presented testimony at a proceeding may ask within 60 days after the close of the proceeding to correct errors in the transcript of their testimony. Such requests shall be granted only to make the transcript conform to their testimony as presented at the proceeding.

§ 702.15 Witness fees.

A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments must be tendered at the witness' request upon service of a subpoena issued on behalf of the Commission or any subcommittee thereof.

§ 702.16 Attendance of news media at public sessions.

Reasonable access for coverage of public sessions shall be provided to the various communications media, including newspapers, magazines, radio, newsreels, and television, subject to the physical limitations of the room in which the session is held and consideration of the physical comfort of Commission members, staff, and witnesses. However, no witnesses shall be televised, filmed, or photographed during the session nor shall the testimony of any witness be broadcast or recorded for broadcasting if the witness objects.

§ 702.17 Communications with respect to Commission proceedings.

During any proceeding held outside Washington, DC, communications to the Commission with respect to such proceeding must be made to the Chairperson or authorized Commission staff personnel in attendance. All requests for subpoenas returnable at a hearing, requests for appearance of witnesses at a hearing, and statements or other documents for inclusion in the record of a proceeding, required to be submitted in advance, must be submitted to the Chairperson, or such authorized person as the Chairperson may appoint, at an office located in the community where such hearing or proceeding is scheduled to be held. The location of such office will be set forth in all subpoenas issued under the rules in this part and in all notices prepared pursuant to § 706.2.